

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**RICHARD A. HAASE AND AUDREY L.  
HAASE,**

**Plaintiffs,**

**v.**

**COUNTRYWIDE HOME LOANS, INC.,  
BANK OF AMERICA CORPORATION,  
BANK OF AMERICA, N.A.,  
DEUTSCHE BANK, AG,  
MORGAN STANLEY ABS CAPITAL I,  
INC.,  
BARRETT, DAFLIN, FRAPPIER,  
TURNER AND ENGEL, L.L.P., and  
ANGELO MOZILO**

**CIVIL ACTION NO. 4:12-cv-1538**

**Defendants**

**DEFENDANTS COUNTRYWIDE HOME LOANS, INC.,  
BANK OF AMERICA CORPORATION, BANK OF AMERICA, N.A.,  
AND DEUTSCHE BANK AS TRUSTEE'S NOTICE OF REMOVAL**

Defendants, Countrywide Home Loans, Inc. (“Countrywide”), Bank of America Corporation, Bank of America, N.A. (“Bank of America”), Deutsche Bank National Company as Trustee on behalf of Morgan Stanley ABS Capital I Inc. Trust 2006-HE6, Mortgage Pass-Through Certificates, Series 2006-HE6, improperly named by Plaintiffs as Deutsche Bank, AG, (“Deutsche Bank as Trustee”)<sup>1, 2</sup> file this Notice of Removal of this action to the United States District Court for the Southern District of Texas, Houston Division, and in support thereof would show unto this Honorable Court the following:

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<sup>1</sup> Deutsche Bank as Trustee has previously appeared in the state court action as the proper party to Plaintiffs’ claims. However, the to the extent Plaintiffs continue to identify the defendant as Deutsche Bank, AG, service has not been properly effected upon Deutsche Bank, AG and therefore Deutsche Bank, AG is not currently a party to this action.

<sup>2</sup> Countrywide, Bank of America Corporation, Bank of America and Deutsche Bank as Trustee will be collectively referred to as “Defendants”.

## **I. INTRODUCTION**

1. This lawsuit, originally filed on December 31, 2007 by Richard A. Haase and Audrey L. Haase (“Plaintiffs”) in the 400th Judicial District Court of Fort Bend County, Texas, arises out of events related to Plaintiffs’ home equity loan.<sup>3</sup>

2. Plaintiffs’ claims against Countrywide have been previously resolved by the state court through the granting of an interlocutory summary judgment in favor of Countrywide on September 22, 2011.<sup>4</sup>

3. On May 15, 2012, Plaintiffs filed their Eighth Amended Petition which added a cause of action for a violation under the Real Estate Settlement Procedures Act of 1974, codified at 12 U.S.C. § 2605 (“RESPA”).<sup>5</sup>

## **II. TIMELINESS OF NOTICE OF REMOVAL**

4. The Plaintiffs’ suit against Defendants was not removable at the time of filing. However, when Defendants received the Plaintiffs’ Eighth Amended Petition on May 15, 2012 and ascertained that the Plaintiffs alleged a cause of action against Defendants under RESPA, the Plaintiffs’ case became removable. No more than thirty (30) days have passed since Defendants received a copy of the Plaintiffs’ Eighth Amended Petition. As such, this removal is timely.<sup>6</sup>

## **III. BASIS FOR REMOVAL: FEDERAL QUESTION JURISDICTION**

5. Removal is proper because this case is a civil action involving a federal question. Plaintiffs appears to premise their claims for relief in part under the provisions of 12 U.S.C. § 2605 relating to notices of transfer of mortgage servicing under RESPA, over which this Court has original jurisdiction pursuant to 28 U.S.C. § 1331.

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<sup>3</sup> See Pls.’ Original Petition.

<sup>4</sup> See Order dated Oct. 28, 2011.

<sup>5</sup> See Pls.’ Eighth Am. Pet., ¶¶ 79-80.

<sup>6</sup> See 28 U.S.C. § 1446(b).

6. This Court has supplemental jurisdiction over Plaintiffs' common law claims because they form part of the same case or controversy as Plaintiffs claims for relief under the federal statute cited above.

**IV. CONSENT TO REMOVAL**

7. Defendant Barrett Daffin Frappier Turner & Engel, LLP, improperly named by Plaintiffs as Barrett, Daflin, Frappier, Turner and Engel, L.L.P., consents to Defendants' removal. See Exhibit A. Defendant Morgan Stanley ABS Capital I, Inc. has not been served with process by Plaintiffs, or, in the alterative, service of process by Plaintiffs was ineffective pursuant to Tex. Bus. Orgs. Code Ann. § 5.201(a) and (b). Defendant Angelo Mozilo has not been served with process by Plaintiffs. Therefore, Defendants Morgan Stanley ABS Capital I, Inc. and Angelo Mozilo's consent to this removal is not necessary.

**V. VENUE**

8. Venue for this Removal is proper in the U.S. District Court for the Southern District of Texas, Houston Division because this district and division includes Fort Bend County, Texas—the location of the pending state court action.

**VI. ADDITIONAL REQUIREMENTS**

9. Pursuant to 28 U.S.C. § 1446(a), copies of all process, pleadings, orders and other papers filed in the state court action and obtained by Defendant are attached hereto and marked as composite Exhibit B and incorporated herein by reference.<sup>7</sup>

10. Written Notice of Removal will be provided to Plaintiffs and filed with the District Clerk of Fort Bend County, Texas.

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<sup>7</sup> Because of the voluminous nature of the documents filed in the state court action, Defendants have tendered to the Clerk of the Southern District of Texas a compact disc containing electronic copies of all process, pleadings, orders and other papers filed in the state court action, rather than submitting the documents through the Court's electronic filing system.

11. In their Original Petition, Plaintiffs demanded a jury trial in their state court action.

WHEREFORE, having satisfied the requirements for removal under 28 U.S.C. §1331, Defendants give notice that Cause No. 07-CV-161177 now pending in the 400th Judicial District Court of Fort Bend County, Texas has been removed to this Court.

Respectfully submitted,  
**McGlinchey Stafford, PLLC**

By: Jeffrey R. Seewald

**JEFFREY R. SEEWALD**  
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**ATTORNEYS FOR DEFENDANTS**  
**BANK OF AMERICA, N.A., and DEUTSCHE**  
**BANK NATIONAL TRUST COMPANY as**  
**Trustee on behalf of MORGAN STANLEY ABS**  
**CAPITAL I INC. TRUST 2006-HE6,**  
**MORTGAGE PASS-THROUGH**  
**CERTIFICATES, SERIES 2006-HE6**

**CERTIFICATE AND NOTICE OF FILING**

I certify that on May 18, 2012 a Notice of Removal will be sent to the District Clerk of Fort Bend County, Texas, and that written notice of filing of the Notice of Removal will be served via facsimile and certified mail, return receipt requested, upon the Plaintiffs and via certified mail, return receipt requested upon Defendant Barrett Daffin Frappier Turner & Engel, LLP.

Jeffrey R. Seewald  
Jeffery R. Seewald

**CERTIFICATE OF SERVICE**

Pursuant to Federal Rule of Civil Procedure 5, I certify that the foregoing was served via certified mail, return receipt requested on this the 18th day of May, 2012 to:

Richard and Audrey Haase  
4402 Ringrose Dr.  
Missouri City, Texas 77496  
*Pro se Plaintiffs*

Via CM/RRR: 7196-9008-9111-5319-5546

Barrett Daffin Frappier  
Turner & Engel, LLP  
Attn: Damian W. Abreo  
1900 St. James Place, Ste. 500  
Houston, Texas 77056

Via CM/RRR: 7196-9008-9111-5319-5553

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*Jeffrey R. Seewald*  
Jeffery R. Seewald